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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
|--|-------------|-------------------------|----------------------------|------------------|
| 09/912,848   | 07/24/2001  | Kim Powell              | ORCL 2000-069-01           | 6014             |
| 7590<br>WAGNER, MURABITO & HAO LLP<br>Third Floor<br>Two North Market Street<br>San Jose, CA 95113 |             |                         | EXAMINER<br>DASS, HARISH T |                  |
|  |             | ART UNIT<br>3692        | PAPER NUMBER               |                  |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/912,848             | POWELL ET AL.       |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Harish T. Dass         | 3692                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 October 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia et al (hereinafter Alaia – US 20020046148) in view of Langseth et al. (hereinafter Langseth US 6,671,715) and Parsons et al. (hereinafter Parsons – US 6,871,214).

Re. Claim 1, Alaia discloses b) conducting an auction wherein bid information received from the remote bidders is compared to determine a bid status and wherein the bid status is used to determine the bid status updates for the remote bidders [Figures 6A-9B, para. 0026, 0030-0034, 0040], c) disseminating the bid status updates to the remote bidders via the distributed computer network in accordance with the update configuration information [Figures 6A-6D and associated paragraph page 1, para. 0069-0072], and d) designating an auction winner at the conclusion of the auction in accordance with a most competitive bid of the bid status [para. 0137, 0158].

Alaia does not explicitly disclose receiving update configuration information from remote bidders via a distributed (broadcast) computer network, the update configuration information for receiving bid status updates. However, Langseth disclose [Abstract; Figure 2A; col. 3 lines 12-21; col. 5 lines 35-55; col. 11 lines 27-30; col. 13 lines 40-47]

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to allow a subscriber (user) a personalized service and receiving timely financial service content. It is known that stocks are auction and bided by the traders on exchange and the price/volume (status) is feed back to the traders and public. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Alaia and include receiving update configuration information from remote bidders via a distributed computer network, the update configuration information for receiving bid status updates (stock price), as disclosed by Langseth, to provide customized financial information/alert at a right time based on the users preference.

Parsons discloses including a time interval for receiving alerts (preconfigured or dynamically configured by the user to send only messages at certain time interval\_) [abstract; col. 6 line 18 to col. 8 line 2]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Alaia and Langseth and include a time interval for receiving alerts, as disclosed by Parsons to send only messages at certain time intervals, hence the user is not overwhelmed by the alerts.

Re. Claim 2, Alaia discloses accessing a specification for an item for the auction, the specification for the item provided by the seller [para. 0007, 0008-0009, 0074, see buyer-bidding auction].

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Re. Claim 3, Alaia discloses specifying initial conditions for the auction, the initial conditions including an allotted time for the auction [para. 0091, 0142, 0181].

Re. Claim 4, Alaia discloses 4. The method of Claim 1 further including the step of: selecting the time interval for the update configuration information by using a graphical user interface of a browser [Figure 3 # 10 & #30, para. 0008, 0026, 0174 – priceline website inherent GUI of a browser].

Re. Claim 5, Alaia discloses wherein the time interval for the update configuration information allows the remote bidders to receive the bid status updates automatically in accordance with the time interval [Figures 6A-9B, para. 0026, 0030-0034, 0037, 0040].

Re. Claim 6, Alaia discloses adjusting the time interval for the update configuration information dynamically as the auction is conducted [para. 0100-0102].

Re. Claim 7, Alaia discloses changing a specification for the item for the auction dynamically as the auction is conducted [para. 0055-0056, 0124], and disseminating the changed specification for the item to the remote bidders via the distributed computer network in accordance with the update configuration information [para. 0026, 0027, 0030].

Re. Claim 8, Alaia discloses storing the update configuration received from the remote bidders at an exchange server host to enable the providing of the bid status to the remote bidders [para. 0026-0027, 0100].

Re. Claim 9, Alaia discloses wherein the distributed computer network is the Internet [para. 026].

Re. Claim 10, Alaia discloses a) accessing a specification for items for the auction [para. 0007-0009, 0074, see database to get information], b) accessing initial conditions for the auction, the initial conditions including an allotted time for the auction [para. 0091, 0142, 0181], d) conducting an auction wherein bid information received from the remote bidders is compared to determine a bid status and wherein the bid status is used to determine the bid status updates for the remote bidders [Figures 6A-9B, para. 0026, 0030-0034, 0040], e) disseminating the bid status updates to the remote bidders via the distributed computer network in accordance with the update configuration information [Figures 6A-6D and associated paragraph page 1, para. 0069-0072], and f) designating an auction winner at the conclusion of the auction in accordance with a most competitive bid of the bid status [para. 0137, 0158].

Alaia does not explicitly disclose receiving update configuration information from remote bidders via a distributed computer network, the update configuration information for transmitting bid status updates to the remote bidders. However, Langseth disclose [Abstract; Figure 2A; col. 3 lines 12-21; col. 5 lines 35-55; col. 11 lines 27-30; col. 13

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lines 40-47] to allow a subscriber (user) a personalized service and receiving timely financial service content. It is known that stocks are auction and bided by the traders on exchange and the price/volume (status) is feed back to the traders and public. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Alaia and include receiving update configuration information from remote bidders via a distributed computer network, the update configuration information including a time interval for receiving bid status updates (stock price), as disclosed by Langseth, to provide customized financial information/alert at a right time based on the users preference.

Parsons discloses including a time interval for transmitting alerts (preconfigured or dynamically configured by the user to send only messages at certain time interval.) [abstract; col. 6 line 18 to col. 8 line 2]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Alaia and Langseth and include a time interval for receiving alerts, as disclosed by Parsons to send only messages at certain time intervals, hence the user is not overwhelmed by the alerts.

Re. Claim 11, Alaia discloses receiving the time interval for the update configuration information from a graphical user interface of a browser on a client machine [Figure 3 # 10 & #30, para. 0008, 0026, 0027, 0030, 0174 – priceline website inherent GUI of a browser].

Re. Claim 12, Alaia discloses wherein the time interval for the update configuration

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information causes the server to transmit the status updates to the remote bidders automatically in accordance with the time interval [Figures 6A-9B, para. 0026, 0030-0034, 0037, 0040].

Re. Claim 13, Alaia discloses adjusting the time interval for the update configuration information dynamically as the auction is conducted [para. 0100-0102].

Re. Claim 14, Alaia discloses changing a specification for an item for the auction dynamically as the auction is conducted [para. 0055-0056, 0124], and disseminating the changed specification for the item to the remote bidders via the distributed computer network in accordance with the update configuration information [para. 0026, 0027, 0030].

Re. Claim 15, Alaia discloses storing the update configuration received from the remote bidders at an exchange server host to enable the providing of the bid status to the remote bidders [para. 0026-0027, 0100].

Re. Claim 16, Alaia discloses wherein the distributed computer network is the Internet [para. 026].

Re. Claim 17, Alaia discloses accessing a specification for an item for the auction, the specification for the item provided by the buyer [para. 00017, 0007-0009, 0074].

***Response to Arguments***

2. Applicant's arguments filed 10/22/2007 have been fully considered but they are not persuasive. Examiner's response are only to the claimed limitation.

In response to applicant's remarks, recitation of page 8, that "Applicants assert that Alaia does not show or suggest update configuration information ..." *Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia et al., Langseth et al. and Parsons et al. Alaia is a primary reference and Langseth et al. and Parsons et al. are secondary reference.*

Reference to independent claim 1: Alaia discloses the concept and process of b) conducting an auction, c) disseminating the bid status updates to the remote bidders, and d) designating an auction winner at the conclusion of the auction (see entire Alaia et al. as require by MPEP and also see adjustment, "Decision rules can be set dynamically during the course of the bidding event by the bidder", "Bids are submitted over this connection and updates are sent to connected bidders", "shows the changes of status of various parameters in the auction as bids are received", "re-evaluated"). The limitations that are/is explicitly not disclosed by the primary reference are/is disclosed by secondary references. Secondary reference Langseth et al. discloses the concept of receiving update configuration information from remote bidders via a distributed (broadcast) computer network, the update configuration information for receiving bid status updates (see entire reference of Langseth et al. per MPEP and the rejection above), also see *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992), and *In re KSR*. Secondary reference Parson et al.

discloses a time interval for receiving alerts (see entire reference of Parson et al. per MPEP).

Reference to independent claim 10: Alaia discloses the concept and process of a) accessing a specification for items for the auction, b) accessing initial conditions for the auction, d) conducting an auction wherein bid information received from the remote bidders is compared to determine a bid status, e) disseminating the bid status updates to the remote bidders, and f) designating an auction winner at the conclusion of the auction (see entire Alaia et al. as require by MPEP and also see adjustment, "Decision rules can be set dynamically during the course of the bidding event by the bidder", "Bids are submitted over this connection and updates are sent to connected bidders", "shows the changes of status of various parameters in the auction as bids are received", "re-evaluated"). The limitations that are/is explicitly disclosed by the primary reference are/is disclosed by secondary references.

See supra.

In response to applicant's argument, recitation of page 8, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Alaia do not describe any "user selectable update configuration information") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument (recitation of page 9, which points out to dependent claims 6 and 13) that "Applicants assert that Langseth does not show the use of any time interval for receiving updates that is user selected and that can be adjusted dynamically during the auction", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See MPEP section 2106.

In response to applicant's argument, recitation of page 9, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "dynamic two way auction") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abdi Kambiz can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass  
Primary Examiner  
Art Unit 3692

